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Date: Feb 11, 00

By:

  
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JC542 U.S. PRO  
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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Derek L. COLLISON, et al.

Examiner: Not Yet Assigned

Serial No.:

Art Unit: Not Yet Assigned

Filed:

For: CERTIFIED MESSAGE DELIVERY AND QUEUING IN MULTIPONT  
PUBLISH/SUBSCRIBE COMMUNICATIONS

Box Patent Application  
Assistant Commissioner for Patents  
Washington, D.C. 20231

### PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER MPEP § 708.02, VIII

#### CLAIMS

All claims in this application are directed to a single invention.

If the Office determines that all the claims presented are not obviously directed to a single invention applicant will make an election without traverse as a prerequisite to the grant of special status.

#### SEARCH

A search has been made by:

USPTO as ISA for PCT/US98/17115.

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The field of search included:

classes and subclasses: **U.S. CL 395/200.67, 200.82, 200.73; 370/390**

## **COPY OF REFERENCES**

Attached are copies of references cited by the USPTO as ISA and IPEA, most closely related to the subject matter encompassed by the claims. Also attached is Form PTO-1449.

## **DETAILED DISCUSSION OF THE REFERENCES**

A detailed discussion of the references, particularly pointing out how the claimed subject matter is distinguishable over the references follows. Also submitted are copies of the Search Report and Written Opinion issued by the USPTO in parent PCT Application PCT/US98/17115.

It is believed that none of these references either anticipate or render obvious the claimed invention. To support this contention, the two most relevant references (as characterized by the IPEA) are summarized briefly, followed by a brief summary of the claimed invention and a discussion on why the invention is not obvious in the light of the two references.

### **U.S. Patent 5,634,012 to Stefik et al.**

Stefik et al. control access to the contents of the work, not the delivery mechanism of the work. Specifically, Stefik et al. tie usage rights (e.g., rights to run software, to read or print text or graphics, to listen to audio, or to reproduce and/or distribute any of the above) in digital works to usage fees. In essence, Stefik et al. monitor usage of a downloadable "work" and ensure payment is received for access to the "work."

Digital works are stored in a first repository and the usage (access) rights of a party in that work are stored in a second repository. A request for usage of a digital work is generated by an end user at a third repository. The requested usage is compared to the end user's access rights. If proper or within the scope of permitted usage or access, the usage is authorized. This authorization enables the downloading of a copy of the digital work by the end user.

Stefik et al., in direct contrast to the claimed invention, always knows the (an) address of a recipient even for an initial unsolicited "mailing" of the message. Also, as Stefik et al. only monitors content use (access), it never cares about receipt of content unless a user has paid for content and then Stefik et al. sets a fault monitoring system. Once the content is delivered, Stefik et al. no longer keeps messaging the user on the "subject."

By its very nature, the Stefk et al. system must control tightly the access to or use of the delivered contents. It must also maintain very detailed information on the user of the work to offer access.

### **U.S. Patent 5,325,303 to Walz et al.**

Walz et al. disclose a method and system for tracking hard copy postal mail. Addresses are printed on address label forms on articles. These are associated (in a computer memory) with a preprinted article or tracking number on the address label and thereafter the preprinted article or tracking number is used to track the return status of the mailed article. This is very similar to tracking software used by organizations such as UPS and FedEx and is strictly a "paper form" method for tracing physical mail receipt.

Walz et al., therefore, also needs a specific mailing address. Moreover, Walz et al. is not a multicast system in which a single message is multicast *without* having an associated address.

### **The claimed invention<sup>1</sup>**

In stark contrast, the claimed invention relates to communications between a publisher application (sender) 10 and a plurality of subscriber applications (listeners) 20, 20' and 20". The applications (10, 20, etc.) are software applications based on one or more computers interconnected by a network 30.

The publisher 10 and subscriber(s) 20 implement a content-based (sometimes called a subject-based) communications protocol. This protocol allows a publisher to publish a message indicating only the content of the message and *without* knowing the identity or protocols used by the subscriber(s) 20. This underlying technology is known and described in many publications.

The invention builds onto this known technology by having a subscriber application (listener) 20 register with a specific publisher 10 to receive certified messages. This registration includes the subscriber's name, its "inbox" address and the subject/content of messages on which it requires information. Thus the publisher 10 will have a list of subscribers and inboxes (but know nothing else about the subscriber) for all subscribers wishing to receive certified messages. The publisher/sender 10 expects an acknowledgement of each message it sends out. The acknowledgement is sent to the publisher/sender 10 it would receive from a subscriber/listener 20, 20' and/or 20". If the publisher/sender 10 does not receive the acknowledgement, it sends an acknowledgement request message, usually for a predetermined time or number of "sends" and/or resends the original message.

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<sup>1</sup> Reference numerals refer to those in the patent application.

It is important to note that communications between subscribers and publishers are multicast and not point-to-point. Point-to-point requires a knowledge of a message recipient's address. Subject or content based addressing requires only a knowledge of the subject (content) of a message. Thus, delivery and receipt are driven by subject (content) and not by a knowledge of a physical "address."

In the event the subscriber wishes to have guaranteed delivery of messages, the publisher can save the message until an acknowledgement of subscriber receipt occurs. Thus, until a message times out, the subscriber can, at a later date, receive the message by contacting the publisher. The message can also be assigned a tracking number. This allows both sender and listener/subscriber to monitor which messages are received and/or missing.

The invention also has a feature by which messages are "queued" for a group of subscribers. This often happens where a group of subscribers can process the message, but it is only necessary for one to do so. The group of subscribers designates one of their number as a task scheduler and the task scheduler passes a received message (task) to a relevant subscriber to perform that task. Tasks are assigned by relative ability (weighting) to do the task.

### **Differences between the claimed invention and the references**

Not one of these concepts is taught or even suggested by any of the references, fair or strained. To the contrary, Stefk et al. is silent as to anonymity, as to content based addressing of messages, and as to publish-subscribe messaging. Stefk et al. must, as indicated above, keep detailed records of a recipient end user and its messaging is point-to-point.

Walz et al. is completely silent about electronic delivery of digital data, about certified delivery of digital data, about redelivery of digital data upon failure of delivery, about content-based publish-subscribe addressing, and about anonymous publish-subscribe. It is clearly a point-to-point system as well.

Although there is some use of the English words, "publish" and "subscribe" and "certified" and "delivery," these are in completely different contexts with completely different meanings.

### **Why is it not obvious to combine Stefk et al. with Walz et al.**

It is clearly not obvious to combine Stefk et al. and Walz et al.. They are totally different systems. Stefk et al. is an electronic gatekeeper for electronic delivery of digital content. The gatekeeper function is performed by comparing what kind of access the customer has asked for with what the customer has paid for. Walz et al. is for tracking physical mailing, and verifying and recording physical receipt. There is

absolutely no suggestion anywhere, in the references or elsewhere, to combine the digital gatekeeper of virtual access to digital date of Stefik et al. to the tracking of physical mail of Walz et al. Even if they are combined, however, they do not teach the claimed invention.

Applicants therefore request that this Petition be granted and the application be allowed.

**FEE**

A check is attached which includes the fee of \$130.00 required by 37 CFR 1.17(i).

The Commissioner is hereby authorized to charge any underpayment of the following fees associated with this communication, or credit any overpayment to Deposit Account No. 03-3117:

- Any national application filing fees under 37 CFR 1.16.
- Any patent application processing fees under 37 CFR 1.17.

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